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9 UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA, ) No. CR 12 00653  
13 )  
Plaintiff, ) PLEA AGREEMENT FOR DEFENDANT  
14 ) DAVID SILVA  
v. )  
15 )  
DAVID SILVA, )  
16 )  
Defendant. )  
17 )  
18 )

19 1. This constitutes the plea agreement between DAVID SILVA  
20 ("defendant") and the United States Attorney's Office for the  
21 Central District of California ("the USAO") in the investigation  
22 of public corruption in the City of Cudahy, California. This  
23 agreement is limited to the USAO and cannot bind any other  
24 federal, state, local, or foreign prosecuting, enforcement,  
25 administrative, or regulatory authorities.

26 DEFENDANT'S OBLIGATIONS

27 2. Defendant agrees to:

28 a) Give up the right to indictment by a grand jury and,

1 at the earliest opportunity requested by the USAO and provided by  
2 the Court, appear and plead guilty to a two-count information in  
3 the form attached to this agreement as Exhibit A or a  
4 substantially similar form.

5 b) Not contest facts agreed to in this agreement and  
6 the Stipulated Statement of Factual Basis attached to this  
7 agreement as Exhibit B.

8 c) Abide by all agreements regarding sentencing factors  
9 contained in this agreement.

10 d) Appear for all court appearances, surrender as  
11 ordered for service of sentence, obey all conditions of any bond,  
12 and obey any other ongoing court order in this matter.

13 e) Not commit any crime; however, offenses that would  
14 be excluded for sentencing purposes under United States  
15 Sentencing Guidelines ("U.S.S.G." or "Sentencing Guidelines")  
16 § 4A1.2(c) are not within the scope of this agreement.

17 f) Be truthful at all times with Pretrial Services, the  
18 United States Probation Office, and the Court.

19 g) Pay the applicable special assessment at or before  
20 the time of sentencing unless defendant lacks the ability to pay  
21 and submits a completed financial statement (form OBD-500) to the  
22 USAO prior to sentencing.

23 h) Make restitution at or before the time of  
24 sentencing, and not seek the discharge of any restitution  
25 obligation, in whole or in part, in any present or future  
26 bankruptcy proceeding.

27 i) Pursuant to 18 U.S.C. § 3663A(a)(3), make  
28 restitution to the Federal Bureau of Investigation, in the amount

1 of \$5,000, representing the amount in undercover funds paid to  
2 defendant during the investigation of this matter.

3 j) Allow funds previously seized in connection with  
4 this matter in the amount of \$6,000 to be applied by the Court to  
5 pay, in order of application, any restitution, special  
6 assessment, criminal fines, and costs that defendant is required  
7 to pay, and execute papers as necessary to accomplish this  
8 application.

9 THE USAO'S OBLIGATIONS

10 3. The USAO agrees to:

11 a) Not contest facts agreed to in this agreement.

12 b) Abide by all agreements regarding sentencing factors  
13 contained in this agreement.

14 c) At the time of sentencing, provided that defendant  
15 demonstrates an acceptance of responsibility for the offenses up  
16 to and including the time of sentencing, recommend a two-level  
17 reduction in the applicable Sentencing Guidelines offense level,  
18 pursuant to U.S.S.G. § 3E1.1, and recommend and, if necessary,  
19 move for an additional one-level reduction if available under  
20 that section.

21 d) Other than for the offenses alleged in the two-count  
22 information attached hereto as Exhibit A (both of which relate to  
23 the same February 28, 2012, receipt of a cash payment, by  
24 defendant, from an FBI confidential informant), and except for  
25 criminal tax violations (including conspiracy to commit such  
26 violations chargeable under 18 U.S.C. § 371), not to prosecute  
27 defendant further for any violations of 18 U.S.C. § 666 (Theft or  
28 Bribery Concerning Programs Receiving Federal Funds), 18 U.S.C.

1 § 1951(a)(1) (Extortion Under Color of Official Right); 18 U.S.C.  
2 § 1346 (Deprivation of Honest Services); 18 U.S.C. § 1503  
3 (Obstruction of Grand Jury Proceedings); 18 U.S.C. § 1512(b)(1)  
4 (Witness Tampering); 18 U.S.C. § 1001(a)(2) (False Statements to  
5 Government Agency); 18 U.S.C. § 242 (Deprivation of Rights Under  
6 Color of Law), or any scheme or conspiracy to commit any such  
7 offenses, arising out of defendant's conduct described in the  
8 Statement of Stipulated Factual Basis attached hereto as Exhibit  
9 B. Defendant understands that (1) this non-prosecution agreement  
10 is co-extensive with the scope of the facts admitted in the  
11 Statement of Stipulated Factual Basis attached hereto as Exhibit  
12 B; and (2) the USAO is free to prosecute defendant criminally for  
13 any other unlawful past conduct or any unlawful conduct that  
14 occurs after the date of this agreement. Defendant agrees that  
15 at the time of sentencing the Court may consider the uncharged  
16 conduct in determining the applicable Sentencing Guidelines  
17 range, the propriety and extent of any departure from that range,  
18 and the sentence to be imposed after consideration of the  
19 Sentencing Guidelines and all other relevant factors under 18  
20 U.S.C. § 3553(a).

21 e) Recommend that defendant be sentenced to a term of  
22 imprisonment no higher than the low end of the applicable  
23 Sentencing Guidelines range, as determined by the Court prior to  
24 any departure downward in offense level pursuant to any section  
25 of Chapter 5 of the United States Sentencing Guidelines, and  
26 provided that the Court does not depart downward in criminal  
27 history category or offense level except to the extent that may  
28 be requested by the USAO. For purposes of this agreement, the

1 low end of the Sentencing Guidelines range is that defined by the  
2 Sentencing Table in U.S.S.G. Chapter 5, Part A, without regard to  
3 reductions in the term of imprisonment that may be permissible  
4 through the substitution of community confinement or home  
5 detention as a result of the offense level falling within Zone B  
6 or Zone C of the Sentencing Table.

7 4. In order for defendant to be guilty of a violation of  
8 Title 18, United States Code, Section 1951(a), Attempted  
9 Extortion Under Color of Official Right, as charged in count one  
10 of the information attached as Exhibit A, the following must be  
11 true: (1) defendant was a person acting under official right; (2)  
12 defendant intended to obtain property to which he knew he was not  
13 entitled; (3) defendant knew that the property would be given in  
14 return for taking or withholding some official action; (4)  
15 commerce or the movement of an article or commodity in commerce  
16 from one state to another would have been affected in some way;  
17 and (5) defendant did something that was a substantial step  
18 toward committing the crime of extortion under color of official  
19 right. Defendant admits that defendant is, in fact, guilty of  
20 the offense described in count one of the information attached as  
21 Exhibit A.

22 5. In order for defendant to be guilty of a violation of  
23 Title 18, United States Code, Section 666(a)(1)(B): Theft or  
24 Bribery Concerning Programs Receiving Federal Funds, as charged  
25 in count two of the information attached as Exhibit A, the  
26 following must be true: (1) defendant was an agent of a state or  
27 local government, or any agency of that government; (2) defendant  
28 solicited, demanded, accepted or agreed to accept anything of

1 value from another person; (3) defendant did so corruptly with  
2 the intent to be influenced or rewarded in connection with some  
3 business, transaction, or series of transactions of a state or  
4 local government, or any agency of that government; (4) the  
5 business, transaction, or series of transactions involved any  
6 thing of a value of \$5,000 or more; and (5) the state or local  
7 government, in a one year period, received benefits of more than  
8 \$10,000 under any federal program involving a grant or other  
9 assistance. Defendant admits that defendant is, in fact, guilty  
10 of the offense described in count two of the information attached  
11 as Exhibit A.

12 PENALTIES AND RESTITUTION

13 6. The statutory maximum sentence that the Court can  
14 impose for a violation of Title 18, United States Code, Section  
15 1951(a), Attempted Extortion Under Color of Official Right, is:  
16 20 years imprisonment; a three-year period of supervised release;  
17 a fine of \$250,000 or twice the gross gain or gross loss  
18 resulting from the offense, whichever is greatest; and a  
19 mandatory special assessment of \$100. The statutory maximum  
20 sentence that the Court can impose for a violation of Title 18,  
21 United States Code, Section 666(a)(1)(B), Theft or Bribery  
22 Concerning Programs Receiving Federal Funds, is: 10 years  
23 imprisonment; a three-year period of supervised release; a fine  
24 of \$250,0000 or twice the gross gain or gross loss resulting from  
25 the offense, whichever is greatest; and a mandatory special  
26 assessment of \$100. Therefore, the total maximum sentence the  
27 Court could impose based upon defendant's guilty pleas is: 30  
28 years imprisonment; a three-year period of supervised release; a

1 fine of \$500,0000 or twice the gross gain or gross loss resulting  
2 from the offenses, whichever is greatest; and a mandatory special  
3 assessment of \$200.

4 7. Supervised release is a period of time following  
5 imprisonment during which defendant will be subject to various  
6 restrictions and requirements. Defendant understands that if  
7 defendant violates one or more of the conditions of any  
8 supervised release imposed, defendant may be returned to prison  
9 for all or part of the term of supervised release, which could  
10 result in defendant serving a total term of imprisonment greater  
11 than the statutory maximum stated above.

12 8. Pursuant to Title 18, United States Code, Section  
13 3663A(a)(3), the parties agree that defendant shall pay  
14 restitution to the Federal Bureau of Investigation ("FBI") in the  
15 amount of \$5,000, which represents the amount of the bribe  
16 payment received by defendant on February 28, 2012. This  
17 paragraph is not intended to limit the amount of any restitution  
18 order that may be entered by the Court at the time of sentencing.

19 9. Defendant understands that, by pleading guilty,  
20 defendant may be giving up valuable government benefits and  
21 valuable civic rights, such as the right to vote, the right to  
22 possess a firearm, the right to hold office, and the right to  
23 serve on a jury. Defendant understands that once the court  
24 accepts defendant's guilty plea, it will be a federal felony for  
25 defendant to possess a firearm or ammunition. Defendant  
26 understands that the conviction in this case may also subject  
27 defendant to various other collateral consequences, including but  
28 not limited to revocation of probation, parole, or supervised

1 release in another case and suspension or revocation of a  
2 professional license. Defendant understands that unanticipated  
3 collateral consequences will not serve as grounds to withdraw  
4 defendant's guilty plea.

5 10. Defendant understands that, if defendant is not a  
6 United States citizen, the felony conviction in this case may  
7 subject defendant to removal, also known as deportation, which  
8 may, under some circumstances, be mandatory. The court cannot,  
9 and defendant's attorney also may not be able to, advise  
10 defendant fully regarding the immigration consequences of the  
11 felony conviction in this case. Defendant understands that by  
12 entering a guilty plea defendant waives any claim that unexpected  
13 immigration consequences may render defendant's guilty plea  
14 invalid.

#### 15 FACTUAL BASIS

16 11. Defendant and the USAO agree to the Statement of  
17 Stipulated Factual Basis attached hereto as Exhibit B. Defendant  
18 and the USAO agree that this Statement of Stipulated Factual  
19 Basis is sufficient to support pleas of guilty to the charges  
20 described in this agreement and to establish any agreed upon  
21 Sentencing Guidelines factors, but is not meant to be a complete  
22 recitation of all facts relevant to the underlying criminal  
23 conduct or all facts known to either party that relate to that  
24 conduct.

#### 25 SENTENCING FACTORS

26 12. Defendant understands that in determining defendant's  
27 sentence the Court is required to consider the factors set forth  
28 in 18 U.S.C. § 3553(a)(1)-(7), including the kinds of sentence



1 and sentencing range established under the Sentencing Guidelines.  
2 Defendant understands that the Sentencing Guidelines are advisory  
3 only, that defendant cannot have any expectation of receiving a  
4 sentence within the Sentencing Guidelines range, and that after  
5 considering the Sentencing Guidelines and the other § 3553(a)  
6 factors, the Court will be free to exercise its discretion to  
7 impose any sentence it finds appropriate up to the maximum set by  
8 statute for the crimes of conviction.

9 13. Defendant and the USAO agree to the following  
10 applicable Sentencing Guidelines factors:

11 Base Offense Level : 14 [U.S.S.G. § 2C1.1(a)(1)]

12 Specific Offense  
13 Characteristics

14 Elected Official/  
15 Official in High  
Level or Sensitive  
Position

: + 4 [U.S.S.G. § 2C1.1(b)(3)]

16 Defendant and the USAO reserve the right to argue that additional  
17 specific offense characteristics, adjustments, and departures  
18 under the Sentencing Guidelines are appropriate.

19 14. Defendant understands that there is no agreement as to  
20 defendant's criminal history or criminal history category.

21 15. Defendant and the USAO reserve the right to argue for a  
22 sentence outside the sentencing range established by the  
23 Sentencing Guidelines based on the factors set forth in 18 U.S.C.  
24 § 3553(a)(1), (a)(2), (a)(3), (a)(6), and (a)(7).

25 WAIVER OF CONSTITUTIONAL RIGHTS

26 16. Defendant understands that by pleading guilty,  
27 defendant gives up the following rights:

28 a) The right to persist in a plea of not guilty.

1           b) The right to a speedy and public trial by jury.

2           c) The right to the assistance of an attorney at trial,  
3 including the right to have the Court appoint an attorney to  
4 represent defendant at trial. Defendant understands, however,  
5 that, despite defendant's guilty pleas, defendant retains the  
6 right to be represented by an attorney -- and, if necessary, to  
7 have the Court appoint an attorney if defendant cannot afford one  
8 -- at every other stage of the proceeding.

9           d) The right to be presumed innocent and to have the  
10 burden of proof placed on the government to prove defendant  
11 guilty beyond a reasonable doubt.

12           e) The right to confront and cross-examine witnesses  
13 against defendant.

14           f) The right to testify on defendant's own behalf and  
15 present evidence in opposition to the charges, including calling  
16 witnesses and subpoenaing those witnesses to testify.

17           g) The right not to be compelled to testify, and, if  
18 defendant chose not to testify or present evidence, to have that  
19 choice not be used against defendant.

20           h) Any and all rights to pursue any affirmative  
21 defenses, Fourth Amendment or Fifth Amendment claims, and other  
22 pretrial motions that have been filed or could be filed.

23                           WAIVER OF DNA TESTING

24           17. Defendant has been advised that the government has in  
25 its possession the following items of physical evidence that  
26 could be subjected to DNA testing:

27           Approximately eight (8) boxes obtained from the Cudahy  
28 City Clerk and containing various items of physical

1 evidence related to the March 2007 and March 2009 City  
2 Council elections in the City of Cudahy, California,  
3 including, but not limited to, ballots, ballot folios,  
4 ballot envelopes, voting receipts, absentee ballot  
5 requests, and reports concerning absentee ballots  
6 requested and cast.

7 Defendant understands that the government may submit several of  
8 the above-listed items for DNA testing, but does not intend to  
9 conduct any further DNA testing of those items or any other items  
10 in connection with the government's investigation of defendant.

11 Defendant understands: (a) before entering guilty pleas pursuant  
12 to this agreement, defendant could request DNA testing of  
13 evidence in this case; and (b) with respect to the offenses to  
14 which defendant is pleading guilty pursuant to this agreement,  
15 defendant would have the right to request DNA testing of evidence  
16 after conviction under the conditions specified in 18 U.S.C. §  
17 3600. Knowing and understanding defendant's right to request DNA  
18 testing, defendant voluntarily gives up that right with respect  
19 to both the specific items listed above and any other items of  
20 evidence there may be in this case that might be subject to DNA  
21 testing. Defendant understands that by giving up this right: (a)  
22 defendant is giving up any ability to request DNA testing of  
23 evidence in this case in the current proceeding, in any  
24 proceeding after conviction under 18 U.S.C. § 3600, and in any  
25 other proceeding of any type; and (b) defendant will never have  
26 another opportunity to have the evidence in this case, whether or  
27 not listed above, submitted for DNA testing, and will never have  
28 an opportunity to employ the results of DNA testing to support a

1 claim that defendant is innocent of the offenses to which  
2 defendant is pleading guilty.

3 WAIVER OF APPEAL OF CONVICTION

4 18. Defendant understands that, with the exception of an  
5 appeal based on a claim that defendant's guilty pleas were  
6 involuntary, by pleading guilty defendant is waiving and giving  
7 up any right to appeal defendant's convictions on the offenses to  
8 which defendant is pleading guilty.

9 MUTUAL WAIVER OF APPEAL OF SENTENCE

10 19. Defendant agrees that, provided the Court imposes a  
11 sentence within the statutory maximum specified above, defendant  
12 waives and gives up the right to appeal all of the following: (a)  
13 the procedures and calculations used to determine and impose any  
14 portion of the sentence, and the manner in which any portion of  
15 the sentence was calculated; (b) the term of imprisonment imposed  
16 by the Court; (c) the fine imposed by the Court, and the manner  
17 in which the fine was determined, provided the fine is within the  
18 statutory maximum; (d) the amount and terms of any restitution  
19 order imposed by the Court; (e) the term of any probation or  
20 supervised release imposed by the Court; and (f) any condition of  
21 probation or supervised release imposed by the Court.

22 20. The USAO agrees that, provided all portions of the  
23 sentence are at or below the statutory maximum specified above,  
24 the USAO gives up its right to appeal any portion of the  
25 sentence.

26 RESULT OF APPEAL OF SENTENCE

27 21. Defendant agrees that, if, despite the mutual waivers  
28 of appeals described in paragraphs 19 and 20, defendant appeals

1 his sentence on any ground other than that the sentence was not  
2 within the statutory maximum prescribed for defendant's offenses  
3 of convictions, that will constitute a material breach, by  
4 defendant, of this plea agreement. The USAO's remedies available  
5 for such a breach shall be as set forth in paragraph 25, below.

6 RESULT OF WITHDRAWAL OF GUILTY PLEA

7 22. Defendant agrees that, if, after entering guilty pleas  
8 pursuant to this agreement, defendant seeks to withdraw and  
9 succeeds in withdrawing defendant's guilty pleas on any basis  
10 other than a claim and finding that entry into this plea  
11 agreement was involuntary, then (a) the USAO will be relieved of  
12 all of its obligations under this agreement and any amendments or  
13 supplements thereto; (b) in any investigation, criminal  
14 prosecution, or civil, administrative, or regulatory action,  
15 defendant agrees that any statements made by defendant, whether  
16 or not made under oath or in Court, and any evidence derived from  
17 any such statements shall be admissible against defendant, and  
18 defendant will not assert, and hereby waives and gives up any  
19 claim under the United States Constitution, any statute, any  
20 federal rule, or any agreement between the parties, that any such  
21 statement or any evidence should be suppressed or is  
22 inadmissible; and (c) should the USAO choose to pursue any  
23 charge, or any civil, administrative, or regulatory action that  
24 was either dismissed or not filed as a result of this agreement,  
25 then (i) any applicable statute of limitations will be tolled  
26 between the date of defendant's signing of this agreement and the  
27 filing commencing any such action; and (ii) defendant waives and  
28 gives up all defenses based on the statute of limitations, any

1 claim of pre-indictment delay, or any speedy trial claim with  
2 respect to any such action, except to the extent that such  
3 defenses existed as of the date of defendant's signing this  
4 agreement.

5 RESULT OF VACATUR, REVERSAL OR SET-ASIDE

6 23. Defendant agrees that if any count of conviction is  
7 vacated, reversed, or set aside, or any sentencing factor or  
8 enhancement imposed by the Court to which the parties stipulated  
9 in this agreement is vacated or set aside, the USAO may: (a) ask  
10 the Court to resentence defendant on any remaining count of  
11 conviction, with both the USAO and defendant being released from  
12 any stipulations regarding sentencing contained in this  
13 agreement, (b) ask the Court to void the entire plea agreement  
14 and vacate defendant's guilty plea on any remaining count of  
15 conviction, with both the USAO and defendant being released from  
16 all their obligations under this agreement, or (c) leave  
17 defendant's remaining conviction, sentence, and plea agreement  
18 intact. Defendant agrees that the choice among these three  
19 options rests in the exclusive discretion of the USAO.

20 EFFECTIVE DATE OF AGREEMENT

21 24. This agreement is effective upon signature and  
22 execution of all required certifications by defendant,  
23 defendant's counsel, and an Assistant United States Attorney.

24 BREACH OF AGREEMENT

25 25. Defendant agrees that if defendant, at any time after  
26 the signature of this agreement and execution of all required  
27 certifications by defendant, defendant's counsel, and an  
28 Assistant United States Attorney, knowingly violates or fails to

1 perform any of defendant's obligations under this agreement ("a  
2 breach"), the USAO may declare this agreement breached. All of  
3 defendant's obligations are material, a single breach of this  
4 agreement is sufficient for the USAO to declare a breach, and  
5 defendant shall not be deemed to have cured a breach without the  
6 express agreement of the USAO in writing. If the USAO declares  
7 this agreement breached, and the Court finds such a breach to  
8 have occurred, then:

9 (a) If defendant has previously entered guilty pleas  
10 pursuant to this agreement, defendant will not be able to  
11 withdraw the guilty pleas.

12 (b) The USAO will be relieved of all its obligations  
13 under this agreement; in particular, the USAO: (i) will no longer  
14 be bound by any agreements concerning sentencing and will be free  
15 to seek any sentence up to the statutory maximum for the crime to  
16 which defendant has pleaded guilty; (ii) will no longer be bound  
17 by any agreements regarding criminal prosecution, and will be  
18 free to criminally prosecute defendant for any crime, including  
19 charges that the USAO would otherwise have been obligated not to  
20 criminally prosecute pursuant to this agreement; and (iii) will  
21 no longer be bound by any agreement between the parties and will  
22 be free to use any statement made by defendant in any way in any  
23 investigation, criminal prosecution, or civil, administrative, or  
24 regulatory action.

25 c) The USAO will be free to criminally prosecute  
26 defendant for false statement, obstruction of justice, and  
27 perjury based on any knowingly false or misleading statement by  
28 defendant.

1 d) In any investigation, criminal prosecution, or  
2 civil, administrative, or regulatory action: (i) defendant will  
3 not assert, and hereby waives and gives up, any claim that any  
4 statement made by him was obtained in violation of the Fifth  
5 Amendment privilege against compelled self-incrimination; and  
6 (ii) defendant agrees that any such statement, as well as any  
7 evidence derived from any such statement, shall be admissible  
8 against defendant, and defendant will not assert, and hereby  
9 waives and gives up, any claim under the United States  
10 Constitution, any statute, Rule 410 of the Federal Rules of  
11 Evidence, Rule 11(f) of the Federal Rules of Criminal Procedure,  
12 or any other federal rule, that any statement made by defendant,  
13 or any evidence derived from any such statement should be  
14 suppressed or is inadmissible.

15 26. Following the Court's finding of a knowing breach of  
16 this agreement by defendant, should the USAO choose to pursue any  
17 charge, or any civil, administrative, or regulatory action that  
18 was not filed as a result of this agreement, then:

19 a) Defendant agrees that any applicable statute of  
20 limitations is tolled between the date of defendant's signing of  
21 this agreement and the filing commencing any such action.

22 b) Defendant waives and gives up all defenses based on  
23 the statute of limitations, any claim of pre-indictment delay, or  
24 any speedy trial claim with respect to any such action, except to  
25 the extent that such defenses existed as of the date of  
26 defendant's signing this agreement.

27 COURT AND PROBATION OFFICE NOT PARTIES

28 27. Defendant understands that the Court and the United



1 States Probation Office are not parties to this agreement and  
2 need not accept any of the USAO's sentencing recommendations or  
3 the parties' agreements to facts or sentencing factors.

4 28. Defendant understands that both defendant and the USAO  
5 are free to: (a) supplement the facts by supplying relevant  
6 information to the United States Probation Office and the Court,  
7 (b) correct any and all factual misstatements relating to the  
8 Court's Sentencing Guidelines calculations, and (c) argue on  
9 appeal and collateral review that the Court's Sentencing  
10 Guidelines calculations are not error, although each party agrees  
11 to maintain its view that the calculations in paragraph 13 are  
12 consistent with the facts of this case. While this paragraph  
13 permits both the USAO and defendant to submit full and complete  
14 factual information to the United States Probation Office and the  
15 Court, even if that factual information may be viewed as  
16 inconsistent with the facts agreed to in this agreement, this  
17 paragraph does not affect defendant's and the USAO's obligations  
18 not to contest the facts agreed to in this agreement.

19 29. Defendant understands that even if the Court ignores  
20 any sentencing recommendation, finds facts or reaches conclusions  
21 different from those agreed to, and/or imposes any sentence up to  
22 the maximum established by statute, defendant cannot, for that  
23 reason, withdraw defendant's guilty pleas, and defendant will  
24 remain bound to fulfill all defendant's obligations under this  
25 agreement. Defendant understands that no one -- not the  
26 prosecutor, defendant's attorney, or the Court -- can make a  
27 binding prediction or promise regarding the sentence defendant  
28 will receive, except that it will be within the statutory

1 maximum.

2 NO ADDITIONAL AGREEMENTS

3 30. Defendant understands that, except as set forth herein,  
4 there are no promises, understandings, or agreements between the  
5 USAO and defendant or defendant's attorney, and that no  
6 additional promise, understanding, or agreement may be entered  
7 into unless in a writing signed by all parties or on the record  
8 in court.

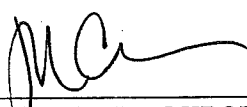
9 PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

10 31. The parties agree that this agreement will be  
11 considered part of the record of defendant's guilty plea hearing  
12 as if the entire agreement had been read into the record of the  
13 proceeding.


14 AGREED AND ACCEPTED

15 UNITED STATES ATTORNEY'S OFFICE  
16 FOR THE CENTRAL DISTRICT OF CALIFORNIA

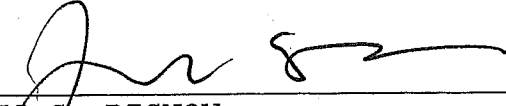
17 ANDRÉ BIROTTE JR.  
18 United States Attorney

19   
20 JOSEPH N. AKROTIRIANAKIS  
21 Assistant United States Attorney

July 11, 2012  
Date

22   
23 DAVID SILVA  
24 Defendant

7-11-12  
Date

25   
26 JAMES S. BISNOW  
27 Attorney for Defendant DAVID SILVA

7/11/12  
Date

28 //

//

1                                    CERTIFICATION OF DEFENDANT

2            I was educated in the United States, I am fluent in the  
3 English language, and it is the language that I understand best.  
4 I have read this agreement in its entirety. I have had enough  
5 time to review and consider this agreement, and I have carefully  
6 and thoroughly discussed every part of it with my attorney. I  
7 understand the terms of this agreement, and I voluntarily agree  
8 to those terms. I have discussed the evidence with my attorney,  
9 and my attorney has advised me of my rights, of possible pretrial  
10 motions that might be filed, of possible defenses that might be  
11 asserted either prior to or at trial, of the sentencing factors  
12 set forth in 18 U.S.C. § 3553(a), of relevant Sentencing  
13 Guidelines provisions, and of the consequences of entering into  
14 this agreement. No promises, inducements, or representations of  
15 any kind have been made to me other than those contained in this  
16 agreement. No one has threatened or forced me in any way to  
17 enter into this agreement. I am satisfied with the  
18 representation of my attorney in this matter, and I am pleading  
19 guilty because I am guilty of the charges and wish to take  
20 advantage of the promises set forth in this agreement, and not  
21 for any other reason.

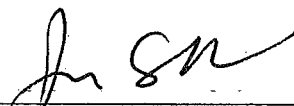
22                                      
23 \_\_\_\_\_  
24 DAVID SILVA  
25 Defendant

7-11-12  
\_\_\_\_\_  
Date

26                                    CERTIFICATION OF DEFENDANT'S ATTORNEY

27            I am David Silva's attorney. I have carefully and  
28 thoroughly discussed every part of this agreement with my client.  
Further, I have fully advised my client of his rights, of

1 possible pretrial motions that might be filed, of possible  
2 defenses that might be asserted either prior to or at trial, of  
3 the sentencing factors set forth in 18 U.S.C. § 3553(a), of  
4 relevant Sentencing Guidelines provisions, and of the  
5 consequences of entering into this agreement. To my knowledge:  
6 no promises, inducements, or representations of any kind have  
7 been made to my client other than those contained in this  
8 agreement; no one has threatened or forced my client in any way  
9 to enter into this agreement; my client's decision to enter into  
10 this agreement is an informed and voluntary one; and the factual  
11 basis set forth in this agreement is sufficient to support my  
12 client's entry of guilty pleas pursuant to this agreement.

13   
14 \_\_\_\_\_  
15 JAMES S. BISNOW  
16 Attorney for Defendant  
17 DAVID SILVA  
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Date

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8 UNITED STATES DISTRICT COURT  
9 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
10

11 UNITED STATES OF AMERICA, ) No.  
12 )  
12 Plaintiff, ) I N F O R M A T I O N  
13 )  
13 v. ) [18 U.S.C. § 1951(a): Attempted  
14 ) Interference with Commerce by  
14 DAVID SILVA, ) Extortion under Color of Official  
15 ) Right; 18 U.S.C. § 666(a)(1)(B):  
15 Defendant. ) Bribery Concerning Programs  
16 ) Receiving Federal Funds]  
16 \_\_\_\_\_)

17 The United States Attorney charges:

18 COUNT ONE

19 [18 U.S.C. § 1951(a)]

20 1. At all times relevant to this Information:

21 a. The City of Cudahy, California, was located within Los  
22 Angeles County and the Central District of California.

23 b. The City of Cudahy used a city council-city manager  
24 form of government, in which Cudahy City Council, adopted legislation,  
25 set policy, adjudicated issues, and established the budget of the  
26 City.

27 c. The Cudahy City Council was comprised of five City  
28 Council members elected at large by the City's registered voters. The

**EXHIBIT**

A

1 Mayor and Vice Mayor were elected by the City Council from within its  
2 membership.

3 d. Defendant DAVID SILVA ("SILVA") was a member of the  
4 Cudahy City Council and, in or about April 2012, became the Mayor of  
5 Cudahy.

6 e. The City of Cudahy had a moratorium on the permitting  
7 of marijuana dispensaries.

8 f. Confidential Witness One ("CW1") operated a marijuana  
9 dispensary in Santa Fe Springs, California.

10 2. On or about February 28, 2012, in Los Angeles County, within  
11 the Central District of California, and elsewhere, defendant SILVA  
12 knowingly obstructed, delayed, and affected commerce and the movement  
13 of articles and commodities in commerce, and attempted to do so, by  
14 extortion, as those terms are defined in Title 18, United States Code,  
15 Section 1951, that is, defendant SILVA obtained personal property to  
16 which he was not entitled and that was not due his office, namely, a  
17 cash payment in the amount of \$5,000, from CW1, with CW1's consent,  
18 induced under color of official right.

COUNT TWO

[18 U.S.C. § 666(a)(1)(B)]

3. The United States Attorney repeats and re-alleges paragraph 1 of this Information as though fully set forth herein.

4. The City of Cudahy was a local government that received federal assistance in excess of \$10,000, in the form of American Recovery and Reinvestment Act of 2009 ("ARRA") highway infrastructure investment grant funds, during the one-year period beginning July 1, 2011, and ending June 30, 2012.

5. Beginning on a date unknown and continuing until on or about May 30, 2012, in Los Angeles County, within the Central District of California, and elsewhere, defendant SILVA corruptly solicited, demanded, accepted, and agreed to accept things of value from a person, namely, cash payments, intending to be influenced and rewarded in connection with the business, a transaction, and a series of transactions of the City of Cudahy involving a thing of value of \$5,000 or more.

ANDRÉ BIROTTE JR.  
United States Attorney

ROBERT E. DUGDALE  
Assistant United States Attorney  
Chief, Criminal Division

LAWRENCE S. MIDDLETON  
Assistant United States Attorney  
Chief, Public Corruption & Civil Rights  
Section

JOSEPH N. AKROTIRIANAKIS  
Assistant United States Attorney  
Public Corruption & Civil Rights Section

## STATEMENT OF STIPULATED FACTUAL BASIS

### Relevant Background Facts

1. The City of Cudahy, California, incorporated in 1960, is located to the Southeast of Downtown Los Angeles. The City of Cudahy is governed by a city council of five members, who are elected at large by registered voters of the City. The offices of Mayor and Vice Mayor are elected from within the Cudahy City Council to serve for one-year terms. The Cudahy City Council adopts legislation, sets policy and adjudicates issues within the City.

2. Until his resignation on July 3, 2012, defendant David Silva ("defendant") had been a member of the Cudahy City Council for more than twenty years. Defendant has served several terms as Mayor of Cudahy, most recently beginning in April 2012.

### Facts Relevant to Federal Jurisdiction under 18 U.S.C. § 666

3. On June 24, 2009, the City of Cudahy received a \$663,000 highway infrastructure investment grant pursuant to the American Recovery and Reinvestment Act of 2009 for a project to improve Live Oak Street. The final disbursement of the \$663,000 in ARRA funds to the City of Cudahy was a \$156,219.74 disbursement paid August 2, 2011.

### Facts Relevant to Federal Jurisdiction under 18 U.S.C. § 1951

4. In late 2011 and early 2012, a Federal Bureau of Investigation confidential informant ("CI") was operating a



marijuana dispensary business in a small city in southeast Los Angeles County. The CI's marijuana dispensary business engaged in interstate commerce in a number of ways, including by purchasing computers, cellular telephones, security equipment, and other electronic devices that had been imported to the United States, or contained components that had been imported to the United States. The operating costs the CI's marijuana dispensary business also included the purchase of any number of office products that had been shipped or transported in interstate commerce.

5. On several occasions in 2012, the CI discussed with defendant and others either relocating his existing marijuana dispensary business to Cudahy or opening an additional marijuana dispensary in Cudahy, and making monetary payments to defendant and others in exchange for being granted permission to operate a marijuana dispensary business in Cudahy. As an example, during a February 10, 2012, conversation with defendant's co-schemer, Angel Perales ("Perales"), the CI informed Perales that he needed to know how much defendant, Perales, and co-schemer Osvaldo Conde ("Conde") wanted to be paid to permit the CI to operate a marijuana dispensary in Cudahy. The CI explained that the purpose of his request was so that he could include the amount in the operating budget of the marijuana dispensary. During a January 27, 2012, meeting between the CI and Conde, Perales, and

defendant, Conde told the CI that he could not provide the CI with a specific amount and invited the CI to instead offer a percentage of the marijuana dispensary's profits.

Facts Relevant to Defendant's Receipt of Cash Payments

6. On January 27, 2012, the CI met with Conde, Perales, and defendant at the Dal Rae restaurant in Pico Rivera, California. The meeting had been arranged by Perales. During the January 27, 2012, lunch meeting, Conde, Perales, defendant, and the CI discussed the CI's desire to open a marijuana dispensary in Cudahy. Perales told Conde and defendant that the CI wanted "open up something . . . in Cudahy," and that the CI would do "whatever it takes" to open his business. The CI stated that he understood that there may be "certain procedures that the city requires," and that he was "willing to comply with them, and also, . . . to do whatever's possible to have [his] business" in Cudahy.

7. Perales informed the CI that the City of Cudahy would only grant one or two permits to operate a marijuana dispensary in Cudahy. Conde informed the CI that others were also interested in opening a marijuana dispensary in Cudahy and that he, Perales, and defendant were "going to . . . hear some of them out" and "decide." Perales asked Conde to give the CI the "bottom line," after which the CI asked Conde to "cut to the chase" and tell the CI what it was "going to take," for the CI to

be "one of the two" dispensaries the City Council would permit to operate in Cudahy. Conde stated that they needed to "hear the various proposals" from different people who wanted to open a marijuana dispensary in Cudahy.

8. Later during the January 27, 2012, lunch meeting, defendant asked the CI whether the CI wanted to open a marijuana dispensary soon, and Conde told the CI that "time is money," and that he understood that the CI was "willing to cooperate, to help to . . . move something along," but that he could not "give [the CI] a number." Conde did, however, invite the CI to make an offer and suggested that the CI may want to offer a percentage of the profits of the marijuana dispensary. During the same meeting, Conde also told the CI that it would be "fundamental" for the CI to "walk in through the right door," and that he and defendant were "the leaders" of the Cudahy City Council, and that they "were the ones who are moving things along."

9. On the afternoon of February 28, 2012, Conde, Perales, and defendant met the CI at the El Potrero nightclub in Cudahy, California. During the meeting, defendant accepted an envelope containing \$5,000 from the CI. Immediately prior to handing the envelope to defendant, in defendant's presence, the CI also handed an envelope to Conde. Prior to handing over the envelopes, the CI told Conde and defendant that he wanted them "to guarantee [him] . . . that [they intended] to help [him] get

[his] license" to operate a marijuana dispensary in Cudahy. Perales then told the CI that he would "be on top" of the list of people who desired to operate a marijuana dispensary in Cudahy. The CI then provided the envelopes to Conde and defendant, and thanked them for taking the time out of their schedules to meet with him.

10. On the afternoon of March 2, 2012, the CI called defendant. After greeting defendant and thanking him for having met with the CI on February 28, 2012, the CI asked defendant if the \$5,000 payment was sufficient. Defendant responded by stating that he did not wish to discuss the matter over the phone. The CI then told defendant that defendant should let the CI know if an additional bribe was needed to secure the CI's license to operate a marijuana dispensary in Cudahy. Defendant told the CI, "We'll talk later." The CI then asked defendant, "I have your vote, right?" defendant responded, "Yes."

Facts Concerning Other Corruption in Cudahy

11. For years, S.T. has owned or operated one or more businesses in Cudahy. Every year, S.T. presented defendant and other Cudahy city officials with bottles of alcohol as gifts. In the past, these bottles were often distributed to the city officials by Conde. In December 2011, shortly before Christmas, S.T. gave defendant an envelope containing \$2,000 in cash. In 2012, the City of Cudahy, acting through the Cudahy City Council,

purchased real property located on the corner of Atlantic Avenue and Patata Street, in Cudahy. The City purchased the property for slightly less than \$3 million. S.T. informed Conde (who informed defendant), that S.T. was interested in purchasing the property from the City to construct a sports arena. S.T. wanted to purchase the property for an amount that exceeded the City's purchase price by approximately \$800,000. Conde informed S.T. that he would arrange to have the property sold to S.T. for approximately the same price the City had originally paid for it in exchange for S.T. paying Conde and defendant \$50,000 each, for a total of \$100,000. S.T. agreed, and Conde and defendant voted in favor of the City's sale of the property to S.T. when the matter came before the Cudahy City Council.

12. A.B. is a developer who has two ongoing projects in Cudahy, one residential and one commercial. In late 2011 or early 2012, A.B. met with Perales, Conde, and defendant at the Dal Rae restaurant in Pico Rivera, California. A.B. gave cash to Perales, who divided the money and then distributed \$2,000 each to Conde and defendant. A.B. provided cash to Perales on another occasion, in or about April 2012. Perales again divided the money and distributed \$2,000 each to Conde and defendant. These payments were made in connection with A.B.'s residential development, which Silva and Conde voted to approve when the matter came before the Cudahy City Council. In May 2012, Conde

and defendant met A.B. at the La Barca Grill and Cantina in Downey, California. A.B. informed Conde and defendant that he had given Perales a total of \$20,000. A.B. informed Conde and defendant that he would pay additional monies in exchange for support for his commercial project which, at the time had yet to come before the Cudahy City Council.

13. Defendant worked at a plant in Hawthorne, California, for approximately 30 years. He was laid off in or about 2002 and remained unemployed for approximately two years. At the time, the City of Cudahy had a contract for policing service with the now-defunct Maywood Police Department. T.K. owned a tow truck service in Maywood and, at that time, had a contract with the City of Cudahy. T.K.'s brother-in-law, S.C., owned an automobile insurance business in Maywood. A former Cudahy city official, G.P., instructed T.K. to have S.C. hire defendant to work at the insurance business, and S.C. hired defendant, initially in a customer service function. S.C. employed defendant for approximately five years. In 2010, the Maywood Police Department was disbanded, and Cudahy contracted with the Los Angeles Sheriff's Department ("LASD") for policing services. After the LASD began policing Cudahy, T.K. lost his contract to provide towing services to Cudahy, and defendant was laid off by S.C.

14. Until approximately March 2011, D.T. provided professional services to the City of Cudahy on a contract basis.

D.T. also owned two "massage parlors" in Cudahy. D.T. co-owned one of the "massage parlors" with M.P. This "massage parlor" was closed, and M.P. planned to open another "massage parlor" in Cudahy, this one without D.T.'s involvement. (M.P.'s partners in the contemplated "massage parlor" included Conde and Perales.) M.P. wanted to open the contemplated "massage parlor," but did not have the required permits to do so. M.P. gave defendant and another Cudahy city official a tour of the building in which M.P. planned to open the contemplated "massage parlor." After the tour, M.P. offered to make a \$12,000 contribution to defendant's re-election campaign in exchange for defendant's assistance in securing permits for M.P.'s business. On another occasion, M.P. offered defendant a \$15,000 campaign contribution. Conde suggested to defendant that defendant should request that M.P. give half the money as a campaign contribution and the other half in cash, which defendant could then share with Conde.

15. H.C. provides professional services to the City of Cudahy on a contract basis. After the City of Cudahy terminated its relationship with D.T., a Cudahy city official recommended that the City of Cudahy contract with H.C. to provide services previously provided by D.T. In or about December 2011, H.C. met defendant at Chris's Hamburgers on Atlantic Avenue, in Cudahy. H.C. provided defendant an envelope containing \$500 in cash. H.C. also offered defendant a job with H.C.

CERTIFICATE OF SERVICE

I, ALEX SILVERIO, declare:

That I am a citizen of the United States and resident or employed in Los Angeles County, California; that my business address is the Office of United States Attorney, United States Courthouse, 312 North Spring Street, Los Angeles, California 90012; that I am over the age of eighteen years, and am not a party to the above-entitled action;

That I am employed by the United States Attorney for the Central District of California who is a member of the Bar of the United States District Court for the Central District of California, at whose direction I served a copy of:

**PLEA AGREEMENT FOR DEFENDANT DAVID SILVA**

☐ Placed in a closed envelope, for collection and interoffice delivery addressed as follows:

☒ Placed in a sealed envelope for collection and mailing via United States Mail, addressed as follows:

☐ By hand delivery

☐ By facsimile as follows:

addressed as follows:


☐ By messenger as follows:

☐ By federal express as follows:

MR. JAMES S. BISNOW, ESQ.  
427 S. MARENGO AVE., STE. 6  
PASADENA, CA 91101

This Certificate is executed on July 11, 2012, at Los Angeles, California.

I certify under penalty of perjury that the foregoing is true and correct.

  
ALEX SILVERIO